WOMEN'S BUREAU
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IMPLEMENTING SAFE LEAVE INTO STATE PAID FAMILY AND MEDICAL LEAVE AND STATE PAID SICK LEAVE LAWS[1]

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Safe leave is an important benefit allowing survivors of gender-based violence and harassment (GBVH), or those who have family members who are survivors of such violence, to seek help, support, and services related to the violence they've experienced. While 18 states and Washington, D.C. provide some form of paid safe leave, not all safe leave laws provide the same levels of protection and support, meaning not all survivors even within those states are afforded the same benefits.[2] To ensure adequate protection and support of survivors (including through their family members), policymakers can consider the following principles to incorporate into existing paid leave statutes or proposed legislation.

Covers All Workers

To provide leave from work to as many survivors and their family members as possible, safe leave laws are the most comprehensive when they apply to all types of workers. This includes workers who work full-time or part-time, contracted workers, as well as any worker regardless of industry.[3] As survivors' ability to work and maintain a job is impacted by the violence they experience, they may work in jobs not traditionally covered by leave policies, which is why it is critical safe leave cover workers regardless of job or industry.[4]

Applies to All Forms of Violence

While states' safe leave laws have traditionally been limited to providing leave related to domestic violence, sexual assault and stalking, those three forms of gender-based violence don't address every form of violence experienced by survivors of violence. To ensure all experiences are appropriately addressed, the most comprehensive safe leave laws provide leave for all forms of violence. Some survivors may not identify as being a "victim of domestic violence," but they will identify as being a "victim of violence." Using broader terminology may help more survivors and their family members access safe leave.

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1. Any links to non-federal websites on this page provide additional information that is consistent with the intended purpose of this federal site, but linking to such sites does not constitute an endorsement by the U.S. Department of Labor of the information or organization providing such information. For more information, please visit https://www.dol.gov/general/disclaim.

2. Arizona (paid sick leave (PSL)), California (PSL), Colorado (paid family and medical leave (PFML) and PSL), Connecticut (PFML and PSL), Illinois (leave for any reason), Maine (PFML and leave for any reason), Maryland (PSL), Massachusetts (PSL), Michigan (PSL), Minnesota (PFML and PSL), New Jersey (PFML and PSL), New Mexico (PSL), New York (PSL), Nevada (leave for any reason), Oregon (PFML and PSL), Rhode Island (PSL), Vermont (PSL), Washington (PSL).

3. McLean, Gladys and Sarah Gonzalez Bocinski. 2017. "The Economic Cost of Intimate Partner Violence, Sexual Assault, and Stalking." Institute for Women's Policy Research. https://iwpr.org/wp-content/uploads/2020/10/B367_Economic-Impacts-of-IPV-08.14.17.pdf.

4. "Americans Need Access to Paid Safe Leave." 2023. Futures Without Violence and National Partnership for Women & Families. https://policy.futureswithoutviolence.org/wp-content/uploads/2023/05/Futures.NPWF-Fact-Sheet-5.12.23.pdf.

Clear Confidentiality Provisions

Many employees who are survivors are unwilling to disclose that they or family members are experiencing or have experienced violence, especially to a supervisor or employer, because they are concerned about their coworkers learning about the violence they've experienced. This is particularly a concern among survivors who are immigrants as many cultures believe violence in the home shouldn't be talked about outside of the home, especially in the workplace.[5] Clearly stating that confidentiality will be maintained unless certain circumstances arise helps a survivor, or any employee, understand what will be kept confidential. Additionally, requiring employers to maintain employee confidentiality helps instill confidence in survivors that their reasoning for seeking leave will remain private.

Self-Attestation of Survivors for Certification

Some states' safe leave laws require, or allow employers to require, a certification or verification to prove the employee needs or needed leave for the permitted reasons. Requiring certification can be a burdensome step for survivors and their families who may be actively seeking safety from violence they are experiencing. Additionally, not all survivors will seek support and services related to the violence they experience, but they may still need to take safe leave. For example, a survivor may need to relocate or change the locks on their door, but they don't have any third-party certification stating they need leave because of the violence they experienced. Some survivors may be fearful to provide certification, as it may "out" them as LGBTQIA+ based on the information available in a police report or court record.[6] In short, there are many reasons an employee may not have certification related to the violence they or their family members have experienced. Self-certification or self-attestation means allowing a survivor to certify themselves that they experienced violence. Self-certification or self-attestation is a less burdensome step for survivors as it allows them to attest to their need for leave without involvement of a third party.

Broad Permissible Uses and "Catch-All" Provision

Many states' safe leave laws permit the same four uses for safe leave: (1) medical/mental/psychological healthcare services, (2) court/legal proceedings, (3) relocation/make home safer, and (4) services from a victim services organization. While those are all important and needed uses, they don't cover many other reasons employees may need to take leave related to violence they or their family members experience. For example, a survivor may need to obtain a different childcare provider if they've moved related to the violence experienced; seek immigration services if their abuser is threatening to have them deported; seek assistance from a bank or financial institution if their identity was stolen by an abuser; or seek assistance from an internet company to have non-consensual intimate images removed from an internet site. These are only a small list of examples that aren't directly accounted for in the common permissible uses for safe leave. A broad "catch-all" provision, similar to those in New York's and Washington, D.C.'s safe leave provision of their paid sick leave laws, allows for employees' unique experiences to be captured by the law.

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5. "Violence Against Immigrant and Refugee Women." 2021. U.S. Department of Health and Human Services Office on Women's Health. https://www.womenshealth.gov/relationships-and-safety/other-types/immigrant-and-refugee-women; Hulley, Joanne et al. 2022. "Intimate Partner Violence and Barriers to Help-Seeking Among Black, Asian, Minority Ethnic and Immigrant Women: A Qualitative Metasynthesis of Global Research." *Trauma, Violence, & Abuse*, 24(2). https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10012394/, https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/Ch1-DyanimcsSexualAssaultImplications-07.10.13.pdf.

6. "Lesbian, Gay, Bisexual and Transgender Domestic Violence Survivors." 2001. Legal Momentum. https://www.legalmomentum.org/sites/default/files/reports/lesbian-bisexual-transgen.pdf; "Understanding Intimate Partner Violence in the LGBTQ+ Community," 2022. Human Rights Campaign. https://www.hrc.org/resources/understanding-intimate-partner-violence-in-the-lgbtq-community; Brown, Taylor N.T. and Jody L. Herman. 2015. "Intimate Partner Violence and Sexual Abuse Among LGBTQ People." UCLA School of Law Williams Institute. https://williamsinstitute.law.ucla.edu/wp-content/uploads/IPV-Sexual-Abuse-Among-LGBT-Nov-2015.pdf.

Broad and Inclusive Definitions of Eligible Family Members

Many states' safe leave laws allow eligible employees to take safe leave if their family member is experiencing violence. For example, the law may allow a parent to use safe leave to take their child, a survivor of sexual assault, to a therapy appointment. However, some safe leave laws allow only the eligible employee to access safe leave for themself, while others cover leave related to family members but limit who is considered an eligible family member. Having broad and inclusive definitions of family members eligible for safe leave ensures safe leave is available to any survivor, or their family member, who may need this benefit.

Broad and Inclusive Definitions of Domestic Violence, Sexual Assault, Stalking, and Other Forms of Gender-Based Violence

Many states' safe leave laws allow safe leave for employees who are survivors or family members of survivors, who have experienced specific forms of gender-based violence, like domestic violence, sexual assault, and stalking. However, the definitions of domestic violence, sexual assault, stalking and other forms of violence can be narrowly written and exclude many survivors' lived experiences. For example, some states' definitions of domestic violence can be limited to two people who are/were married or are cohabitating, excluding any dating relationships where the two people aren't cohabitating. This can limit some survivors' eligibility for safe leave as their eligibility would be determined by a definition rather than their needs. The benefit of using broader and inclusive definitions of gender-based violence and harassment is better coverage and protection of survivors.

Employer Notice

Many employees are unaware that domestic violence, sexual assault, stalking and other forms of violence are covered by either their state paid family and medical leave or state paid sick leave law. Requiring employers to provide written notice to workers of their rights and benefits, including access to safe leave, ensures employees can utilize this benefit if needed. In order for the most workers to see and understand the employer notice, employers should post the notice in a common space where all employees can view it and draft the notice in language(s) in terms of level of literacy their workers can read and understand and in appropriate languages other than English.